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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 09th March, 2016

\+ **MAC.APP. 1247/2012**

ICICI LOMBARD GENERAL INSURANCE COMPANY LTD.
..... Appellant
Through Ms. Pooja Tandon, Adv. for Ms. Neerja Sachdeva, Adv.

versus

GURDEEP SINGH & ORS. ..... Respondent
Through None

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. By judgment dated 25.07.2012, the Motor Accident Claims Tribunal (the tribunal) decided claim case registered as 322/2010/2008 and awarded compensation in the sum of Rs.97,690/- with interest at 9% per annum in favour of the first respondent on account of injuries suffered by him in a motor vehicular accident that had occurred on 07.03.2008 involving motor vehicle described as DL 1V B 5573. As per the case brought before the tribunal, the said vehicle was driven at the relevant point of time by Khurshid (third respondent herein), it being owned by respondent Raj Kumar Maan (second respondent herein) and admittedly insured against third party risk with the appellant company (insurer) which was shown in the array as the first respondent before the tribunal.

2. It appears the driver had professed to be in possession of valid driving licence. During inquiry before the tribunal the insurer took the plea that the said driving licence was a fake document. The owner had chosen to suffer the proceedings *ex-parte* while the driver filed a reply but did not lead any evidence in defence. The insurance company relied on the evidence of Gautam Bhatnagar (R1W1) brought in to prove, *inter alia*, the verification report (Ex.R1W1/6) of investigator Amit Verma to the effect that the driving licence in question was a fake document. The Tribunal, however, rejected the contention of the insurance company and declined to exonerate it or grant recovery rights, thus, fastening the liability on it to pay.

3. The insurance company by the appeal at hand, has pressed for recovery rights stating that it has already paid the compensation to the claimant. It is the contention of the insurance company that since the document was fake, and there was no contest whatsoever by the owner or driver to the evidence adduced, its plea should have been accepted. At the same time, the learned counsel for the insurance company submitted that it requests for opportunity to lead further evidence so that no doubts remain as to the report of investigation relied upon by it as to the fabrication indulged in by the driver, presumably at the instance of the insurer (owner).

4. In the above facts and circumstances, the appeal is allowed. The finding of the Tribunal rejecting the contention of the insurance company about the driving licence to be fake is set aside. The matter to that extent is remitted to the tribunal for further inquiry and adjudication. During the further inquiry, the insurance company will be entitled to lead additional evidence. Needless to add, opposite parties which participate and contest

will be entitled to cross-examine the additional witness(es) and also lead evidence in rebuttal. The parties are directed to appear before the tribunal on 19.04.2016.

5. Statutory deposit, if made, shall be refunded.

6. The appeal is disposed of in above terms.

R.K. GAUBA
(JUDGE)

MARCH 09, 2016
VLD